

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

MANUEL ANTONIO FERNANDEZ,
a/k/a "Lupillo,"
a/k/a "Rubio,"

Defendant.

INDICTMENT

07 Cr.

07 CRIM1069

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: NOV 26 2007

COUNT ONE

The Grand Jury charges:

1. From at least in or about 2004, up to and including in or about May 2007, in the Southern District of New York and elsewhere, MANUEL ANTONIO FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that MANUEL ANTONIO FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant, and others known and unknown, would and did distribute, and possess with intent to distribute, a controlled substance, to wit, five hundred grams and more of mixtures and substances containing a detectable amount of cocaine, in violation of Sections 812, 841(a)(1), and 841(b)(1)(B) of Title 21 of the United States Code.

JUDGE SWAIN

Overt Act

3. In furtherance of the conspiracy, and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. On or about April 8, 2007, MANUEL ANTONIO FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant, had a telephone conversation with a co-conspirator not named as a defendant herein, who was in the Bronx, New York, about the sale of cocaine.

(Title 21, United States Code, Section 846.)

Forfeiture Allegation as to Count One

4. As a result of committing the controlled substance offense alleged in Count One of this Indictment, MANUEL ANTONIO FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant, shall forfeit to the United States, pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the defendant obtained directly or indirectly as a result of the said violation and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of said violation.

Substitute Asset Provision

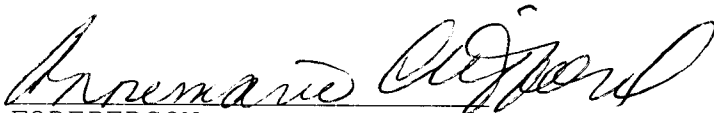
5. If any of the above-described forfeitable property, as a result of any act or omission of MANUEL ANTONIO

FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value;
- or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of MANUEL ANTONIO FERNANDEZ, a/k/a "Lupillo," a/k/a "Rubio," the defendant, up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 853.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(Title 21, United States Code, Section 846)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL



Foreperson.

12/4/07 Case assigned to J. Suarez
SS

M. J. Horvath